IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11521 of 2000

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE K.R.VYAS

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SANJAY PATEL

Versus

STATE OF GUJARAT

Appearance:
MR KH BAXI for Petitioner
GOVERNMENT PLEADER for Respondent No. 1, 2, 3, 4, 5, 6

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE K.R.VYAS

Date of decision:

CAV JUDGEMENT

(Per : MR.JUSTICE K.R.VYAS)

1. The present petition is preferred by the petitioner in public interest against the deliberate delay in purchase of Heart-Lung machine and its accessories at the Civil Hospital, Ahmedabad.

2. It is averred in the petition that the Civil Hospital is run by the State Government and has extraordinary facilities for poor at either minimum cost or free of cost. Looking to the present day needs as well as available expertise at Civil Hospital, the respondents decided to purchase Heart- Lung machine and its accessories, the one which is used for operations concerning heart diseases including the widely known bypass surgery. It is further averred that the same was also approved and also budgeted way back in 1997 as is clear from the Government Resolution dated 2.9.1997 vide Annexure B. However, for the reasons best known to the respondents, the same was not purchased and ultimately the proposal for revalidating the provision was made and was again revalidated vide AnnexureC. It is the case of the petitioner that subsequently, the Director, Central Medical Stores Organisation, respondent no.6 herein also issued tender notice for the same and the last date of submission of tenders was 12.3.1999. However, nothing helpful to the patients is done so far. It is averred that the said inaction is for no other reason than to facilitate the Trust/ Corporate Hospitals to trade on sickness and mint money. The petitioner has, therefore, contended that if the Heart-Lung machine is installed at Civil Hospital as per the scheme, many patients will get treatment free of cost and can save their lives. The petitioner has, therefore, prayed to direct the respondents to revalidate grant as well as to instal Heart-Lung machine and its accessories as sanctioned in Civil Hospital, Ahmedabad.

3. We have heard Mr.K.H.Baxi, learned Counsel for the petitioner at length and Ms. Manisha Lavkumar, learned AGP appearing for the respondents. We have also gone through the reply affidavit filed by Under Secretary to the Government of Gujarat, Health and Family Welfare Department, on behalf of respondent no.1 as also the rejoinder affidavit filed by the petitioner.

4. In the reply affidavit filed on behalf of the respondent no.1, it has been made clear that open heart surgery as well as bypass surgery are carried out at U.N.Mehta Institute of Cardiology situated in the same compound of the Civil Hospital which is being run by a private trust. The said Institute of Cardiology is maintaining Heart Lung machine which is used for open heart surgery as well as bypass surgery. It is stated that sophisticated equipments required for the treatment of various ailments are very costly. The State

Government has to make judicious utilisation of available funds for giving better health and medical services all over the State. Considering the fact that cardiac diseases require specialised treatment and, therefore, costly equipment, the State Government converted the Department of Cardiology of the Civil Hospital, Ahmedabad into that of an autonomous body run by the State Government with an idea of providing specialised treatment to cardiac patients and attracting supplementary resources through donations etc. Accordingly, U.N.Mehta Institute of Cardiology has undertaken the task of providing better treatment for cardiac ailment. It is specifically stated in the affidavit that there are two Heart-Lung machines in U.N.Mehta Institute of Cardiology. The Institute has specialised facilities of well equipped operation theatre and also the required medical and para medical staff. There is, therefore, no need of having Heart Lung machine at Civil Hospital, Ahmedabad especially in absence of required trained and full time staff.

5. Once the State Government has made a judicious utilisation of available funds for providing better health and medical services, merely because budgetary provisions were made for purchase of equipments, the respondents cannot be compelled to purchase Heart Lung machine. In our opinion, even though the proposal was made earlier and in the subsequent year, the said proposal was revalidated, it is not possible for this Court to compel the respondents to purchase Heart Lung machine and other accessories, especially when the respondents have taken a decision not to purchase the said machine and accessories as the said services are available at U.N.Mehta Institute of Cardiology. The said Institute has specialised facilities of well equipped operation theatre and also the required medical and para medical staff and, therefore, there is no need of having Heart Lung machine at Civil Hospital,Ahmedabad. It is not only the cost of the machine which is required to be taken into consideration, but while purchasing the said machine, so many other things, namely appointment of trained and experienced full time staff, construction of new building having operation theatre facilities like ICCU unit etc. are to be borne in mind.

6. It was contended by the learned Counsel for the petitioner that the Civil Hospital which is being run by the State Government is having facilities for poor patients at either minimal cost or free of cost and in absence of such facilities at U.N.Mehta Institute of Cardiology, the poor patients will be the sufferers. The learned AGP Ms. Manisha Lavkumar has produced a letter dated 17.2.2001 issued by the Chief Executive Officer of

U.N.Mehta Institute of Cardiology and Research Centre, Ahmedabad. It is specifically stated in the said letter that no separate charge will be recovered from the patients for the use of machine for open heart surgery. Further, it is stated that the financial capacity of the poor patients will also be taken into consideration and exemption from payment of charges either partly or fully will be made available. Not only that, the poor patients will be given financial assistance from the Chief Minister's Relief Fund. In this view of the matter, the apprehension on the part of the petitioner has no merits.

7. In the result, we see no merit in this petition and is rejected. Rule discharged with no order as to costs.

---

sonar/-